



Billing Code 7709-02-P

## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Part 4213**

#### **RIN 1212-AB54**

#### **Actuarial Assumptions for Determining an Employer's Withdrawal Liability**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of proposed rulemaking; extension of comment period.

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**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) is extending the comment period for a proposed rule that would provide interest rate assumptions that may be used by a plan actuary in determining a withdrawing employer's liability under a multiemployer plan.

PBGC published the proposed rule in the *Federal Register* on October 14, 2022, with a comment period that was scheduled to end on November 14, 2022. Since the proposed rule was published, PBGC has received a request from a group of interested parties for PBGC to extend the comment period to provide a total of at least 60 days from October 14, 2022, for them to submit comments on the proposal. In response to this request, PBGC is extending the comment period through December 13, 2022.

**DATES:** The comment period for the proposed rule published October 14, 2022, at 87 FR 62316, is extended. Comments must be received on or before December 13, 2022, to be assured of consideration.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- *E-mail:* [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov) with subject line "4213 proposed rule."

- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101.

Commenters are strongly encouraged to submit comments electronically. PBGC expects to have limited personnel available to process comments submitted on paper by mail or hand delivery. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the 4213 proposed rule. All comments received will be posted without change to PBGC's website, [www.pbgc.gov](http://www.pbgc.gov), including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101, or calling 202-326-4040 during normal business hours. If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**FOR FURTHER INFORMATION CONTACT:** John Ginsberg ([ginsberg.john@pbgc.gov](mailto:ginsberg.john@pbgc.gov)), Assistant General Counsel, Multiemployer Law Division, Office of the General Counsel, at 202-229-3714, or Gregory Katz ([katz.gregory@pbgc.gov](mailto:katz.gregory@pbgc.gov)), Attorney, Regulatory Affairs Division, Office of the General Counsel, at 202-227-8918. If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Pension Benefit Guaranty Corporation's (PBGC) legal authority to prescribe actuarial assumptions and methods for purposes of determining an employer's withdrawal liability comes from section 4213 of the Employee Retirement Income Security Act of 1974

(ERISA), and from section 4002(b)(3) of ERISA, which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA.

Section 4213(a)(2) of ERISA authorizes PBGC to set forth in its regulations actuarial assumptions and methods that may be used by a plan actuary for the purpose of determining an employer's withdrawal liability as an alternative to the assumptions and methods used under section 4213(a)(1).

On October 14, 2022, PBGC published a proposed rulemaking in the *Federal Register* entitled Actuarial Assumptions for Determining an Employer's Withdrawal Liability (the Proposed Rule).<sup>1</sup> The rule was proposed to make clear that use of settlement rates prescribed by PBGC under section 4044 of ERISA, either as a standalone assumption or combined with funding interest assumptions, represents a valid approach to selecting an interest rate assumption to determine withdrawal liability in all circumstances.

The Proposed Rule contains a 30-day comment period, which was scheduled to expire on November 14, 2022. Since the publication of the Proposed Rule, PBGC received a comment from a group of interested parties that expressed concern that the 30-day comment period does not provide commenters with sufficient time to develop and submit comments. The comment requests that PBGC extend the comment period to at least 60 days from the date of publication in the *Federal Register*. After considering the extension request, PBGC has decided that it is appropriate to extend the comment period for this Proposed Rule to a total of 60 total days from the date of publication to provide interested parties with additional time to participate in this rulemaking process. The comment period, therefore, will close on December 13, 2022.

Signed in Washington, DC.

**Gordon Hartogensis,**

Director,  
Pension Benefit Guaranty Corporation.

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<sup>1</sup> 87 FR 62316

